



## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collections for OMB Review; Comment Request; Multiemployer Plan Regulations

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intent to request extension of OMB approval of information collections.

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**SUMMARY:** The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend its approval, under the Paperwork Reduction Act of collections of information in PBGC's regulations on multiemployer plans under the Employee Retirement Income Security Act of 1974 (ERISA). This notice informs the public of PBGC's intent and solicits public comment on the collections of information.

**DATES:** Comments must be submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Email:* [paperwork.comments@pbgc.gov](mailto:paperwork.comments@pbgc.gov).

- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the OMB control number(s) and the specific part number(s)

of the regulation(s) they relate to. All comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including any personal information provided.

Commenters should not include any information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information ("confidential business information"). Submission of confidential business information without a request for protected treatment constitutes a waiver of any claims of confidentiality.

Copies of the collections of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026, or calling 202-229-4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

**FOR FURTHER INFORMATION CONTACT:** Karen Levin ([levin.karen@pbgc.gov](mailto:levin.karen@pbgc.gov)), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026, 202-229-3559. (If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.)

**SUPPLEMENTARY INFORMATION:** OMB has approved and issued control numbers for three collections of information in PBGC's regulations relating to multiemployer plans. These collections of information are described below. OMB approvals for these collections of information expire June 30, 2022. PBGC intends to request that OMB extend its approval of these collections of information for 3 years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. PBGC is soliciting public comments to—

- Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**1. Termination of Multiemployer Plans (29 CFR part 4041A) (OMB control number 1212-0020) (expires June 30, 2022)**

Section 4041A(f)(2) of ERISA authorizes PBGC to prescribe reporting requirements and other rules and standards for administering terminated multiemployer plans. Section 4041A(c) and (f)(1) of ERISA prohibit the payment by a mass-withdrawal-terminated plan of lump sums greater than \$1,750 or of nonvested plan benefits unless authorized by PBGC.

The regulation requires the plan sponsor of a terminated plan to file a notice of termination with PBGC. The notice of termination must contain the information and certification specified in the instructions for the notice of termination on <http://www.pbgc.gov>. The regulation also requires the plan sponsor of a mass-withdrawal-terminated plan that is closing out to give notices to participants regarding the election of alternative forms of benefit distribution and, if the plan is not closing out, to obtain PBGC approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits.

PBGC uses the information in a notice of termination to assess the likelihood that PBGC financial assistance will be needed. Plan participants and beneficiaries use the information on alternative forms of benefit to make personal financial decisions. PBGC uses the information in an application for approval to pay lump sums greater than \$1,750 or to pay nonvested plan benefits to determine whether such payments should be permitted.

The regulation also requires plans terminated by mass withdrawal, plans terminated by plan amendment that are expected to become insolvent, and insolvent plans under part 4245 receiving financial assistance from PBGC (whether terminated or not terminated) to file with PBGC withdrawal liability information and actuarial valuations or, for smaller plans receiving financial assistance where the present value of the plan's nonforfeitable benefits is \$50 million or less, alternative information. PBGC uses the withdrawal liability and actuarial valuation information to estimate PBGC's multiemployer liabilities for purposes of its financial statements and to provide financial assistance to plans that become insolvent.

PBGC estimates that each year, plan sponsors submit notices of termination for five plans, distribute election notices to participants in one of those plans and submit requests to pay benefits or benefit forms not otherwise permitted for one of those plans. The estimated annual burden of this part of this collection of information is 25 hours and \$25,000.

Furthermore, PBGC estimates that each year, plan sponsors file actuarial valuations electronically for 100 plans that are terminated or insolvent, and that only 1 smaller plan will file alternative information. The estimated annual burden of this part of the collection of information is 26 hours and \$10,400.

PBGC estimates that each year plan sponsors file withdrawal liability payment information from approximately 10 plans. The estimated annual burden of this part of the collection of information is 10 hours and \$4,000.

The estimated total hour burden is 61 hours (25+26+10). The estimated annual burden of the collection of information is estimated to be \$39,400 (\$25,000+\$4,000+\$10,400).

## **2. Duties of Plan Sponsor of an Insolvent Plan (29 CFR part 4245) (OMB control number 1212-0033) (expires June 30, 2022)**

Section 4245(e) of ERISA requires two types of notice: a "notice of insolvency," stating a plan sponsor's determination that the plan is or may become insolvent, and a "notice of insolvency benefit level," stating the level of benefits that will be paid during an insolvency year.

The recipients of these notices are PBGC, contributing employers, employee organizations representing participants, and participants and beneficiaries.

The regulation establishes the procedure for complying with these notice requirements. It allows a plan sponsor to combine the notice of insolvency and notice of insolvency benefit level. In addition, the regulation only requires a plan sponsor to provide an updated notice to participants and beneficiaries if there is a change in the amount of benefits paid to participants and beneficiaries. PBGC uses the information submitted to estimate cash needs for financial assistance to troubled plans. The collective bargaining parties use the information to decide whether additional plan contributions will be made to avoid the insolvency and consequent benefit suspensions. Plan participants and beneficiaries use the information in personal financial decisions.

PBGC estimates that at most one plan sponsor of an ongoing plan gives notices each year under section 4245. The estimated annual burden of the collection of information is 16 hours and \$10,000.

### **3. Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) (OMB control number 1212-0032) (expires June 30, 2022)**

Section 4281 of ERISA provides rules for plans that have terminated by mass withdrawal. Under section 4281, if nonforfeitable benefits exceed plan assets, the plan sponsor must amend the plan to reduce benefits. If the plan nevertheless becomes insolvent, the plan sponsor must suspend certain benefits that cannot be paid. If available resources are inadequate to pay guaranteed benefits, the plan sponsor must request financial assistance from PBGC.

The regulation requires a plan sponsor to give notices of benefit reduction, notices of insolvency, and notices of insolvency benefit level to PBGC and to participants and beneficiaries and, if necessary, to apply to PBGC for financial assistance. A plan sponsor can combine the notice of insolvency and the notice of insolvency benefit level.

PBGC uses the information it receives to make determinations required by ERISA, to identify and estimate the cash needed for financial assistance to terminated plans, and to verify the appropriateness of financial assistance payments. Plan participants and beneficiaries use the information to make personal financial decisions.

PBGC estimates that plan sponsors of terminated plans each year will file with PBGC 1 notice of benefit reduction, 7 notices of insolvency, 3 combined notices of insolvency and insolvency benefit level, and 5 notices of insolvency benefit level. PBGC also estimates that plan sponsors each year will file initial requests for financial assistance for 10 plans and will submit 425 non-initial applications for financial assistance. The estimated annual burden of the collection of information is 241 hours and \$420,400.

Issued in Washington, DC, by

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*Pension Benefit Guaranty Corporation.*

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